



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,581	11/24/2003	Obada Kayali	GRIFF-44923	5795
26252	7590	12/08/2006	EXAMINER	
KELLY LOWRY & KELLEY, LLP 6320 CANOGA AVENUE SUITE 1650 WOODLAND HILLS, CA 91367			MARCANTONI, PAUL D	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,581

Applicant(s)

KAYALI ET AL.

Examiner

Paul Marcantoni

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-19 and 23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-7,9-19, and 23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Applicants' 9/28/06 arguments and 10/3/06 terminal disclaimer is acknowledged but is not convincing. All 35 USC 112 second paragraph rejections are withdrawn.

35 USC 103

Claims 1, 3-7, 9-19, and 23 are rejected under 35 USC 103 as unpatentable over Friedman '831, Ban '101, Foster '245, Golitz et al. '079, Du et al. (CN 1268495 abstract), Wei et al. (CN 398813-abstract), or Widaj (PL 129013 abstract).

Note: Brown '565 was withdrawn because he requires mixing slag with fly ash. Kobayashi '330 was withdrawn because he requires adding hydraulic material which is now excluded by applicants' claim language. Applicants claims are limited to add only fly ash, plasticizer, and water. The other references removed did not teach a plasticizer.

Response

Obviousness Type Double Patenting

The applicants submission of their 10/3/06 terminal disclaimer (which has been approved) overcomes the ODP rejection over US 6,802,896 B2 (Kayali).

35 USC 103

Applicants argue that there is no commonality between their invention and Friedman '831 as Friedman '831 makes pellets. The examiner disagrees and notes pellets are shaped articles. The applicants also argue Friedman '831 is concerned with densification of fly ash pellets (a shaped article). Yet, applicants, like Friedman '831, also sinter and sintering results in a densified article. The steps of Friedman are the same as those claimed by applicants. Friedman further teach adding slippage agents such as bentonite and other clays, sodium silicate, carboxyvinyl polymers, etc. (col.3,

Art Unit: 1755

lines 5-10). Slippage agents are plasticizers. Clay itself is known to improve the plasticity of a composition and thus is a plasticizer.

Applicants argue Ban et al.'101 that they teach making aggregate by palletizing fly ash. Yet a pellet is a shaped article and thus meets applicants claims. Ban also teach firing his fly ash mixture. Sintering is firing at high temperatures. Ban further teach adding sodium silicate (col.3, line 1) which can meet the definition of plasticizer as set forth in applicants' specification to improve or facilitate workability. Applicants also do not define any specific plasticizer in their claims and they cannot read the limitations of any particular binder into the claims from their specification.

Golitz '079 teach according to applicants a method of making ceramic articles by mixing fly ash, carbon, and binder which they allege is clearly distinct from the present application which uses fly ash, plasticizer, and water. They further allege Golitz only heats at low temperatures if 65 C to 100 C. Yet, Golitz does not teach carbon as a separate component but as a residual material in fly ash. It is notoriously known in the art that fly ash contains residual carbon when coal is burned. More so, the binder of Golitz meets the limitations of applicants' plasticizer. Golitz teaches in column 4, lines 55-56 that ball clay is added to improve plasticity. It is thus a plasticizer.

The applicants did not argue the Chinese and Polish abstracts and thus the rejection over these references remain. The Chinese abstracts also teach a clay addition which is a plasticizer and Widaj (Polish abstract) even directly teaches adding a plasticizer to fly ash and firing.

The examiner has fully responded to applicants' remarks and the finality of this office action is now proper. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Marcantoni
Primary Examiner
Art Unit 1755